IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

NOTICE OF MOTION NO.2096 OF 2005
IN
APPEAL (LODGING) NO.609 OF 2005
IN
NOTICE OF MOTION NO.1955 OF 2004
IN
SUIT NO.1886 OF 2004

Ansari Mohd.Tahir Mohd.Sadique — Appellant
vs.
B.E.S.T. — Respondent

Ms.Hemani Jhariya for the appellant.

Mr.H.Toor i/b.M/s.Carwford Bayley & Co. for the respondent.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 8th August 2005

P.C.

Heard the learned counsel for the appellant-applicant and the learned counsel for the respondent.

2. The appellant is the original plaintiff. He has filed the appeal against the order dated 5th May 2005. The appeal suffers from delay of 19 days. Hence by this notice of motion, the appellant prays for condonation of delay.

3. In support of notice of motion, two affidavits have been filed. One by the appellant himself and the other

by the court clerk of the Advocate. According to both these affidavits the delay occurred because due to oversight, the court clerk of the advocate could not file the praecipe given to him by the advocate for issuance of the certified copy of the order dated 5th May 2005. Though the advocate for the respondent opposes the notice of motion, no reply affidavit has been filed. The affidavits of the appellant as well as the court clerk of the advocate remain unchallenged. We find no justifiable reason to disbelieve the affidavits filed by the appellant in support of the notice of motion.

4. Consequently, we are satisfied that the appellant was prevented by sufficient cause in filing the appeal in time.

5. We condone the delay in filing the appeal. Office is directed to process the appeal and post it for admission as soon as numbered.

6. Notice of motion stands disposed of.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)